REMARKS

This is a response to the Final Office Action dated November 8, 2004. Claims 1-126 are pending in the application. In the Office Action, claims 1--126 were rejected under 35 U.S.C. § 112, 2nd paragraph.

The rejections from the Final Office Action are discussed below in connection with the various claims. No new matter has been added. Reconsideration of the application is respectfully requested in light of the following remarks.

I. REJECTION UNDER 35 U.S.C. § 112, 2nd PARAGRAPH

Claims 1-126 were rejected pursuant to 35 U.S.C. § 112, 2nd paragraph as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. In particular, it is the Examiner's position that the Applicants have presented an unreasonable amount of claims per MPEP § 2173.05(n). With this response, Applicants have cancelled claims 42-50 and 92-126. Applicants submit that the remaining claims are reasonable in view of the nature and scope of Applicants' invention. Accordingly, Applicants request that the Examiner withdraw this rejection.

II. APRIL 21, 2004 REJECTIONS UNDER 35 U.S.C. § 101

In the Office Action of April 21, 2004, independent claims 1, 42, 102, and 119-126 were rejected pursuant to 35 U.S.C. § 101 as being directed to non-statutory subject matter. Because the Examiner did not reject the system claims 51-101, Applicants assumed that the Examiner did not intend to reject similar system claims 123-126. In the prior response filed July 19, 2004, independent claims 1, 42, 102, and 119-123 were amended. These amendments added no new matter and are supported by the specification. With this response, claims 42-50 and 92-126 have been cancelled. Accordingly, Applicants submit that claim 1, as previously amended, is directed to statutory subject matter.

Additionally, dependent claims 2-41, 43-50, 93-101, and 104-118 were also rejected pursuant to 35 U.S.C. § 101 as being directed to non-statutory subject matter. As noted above, with this response claims 42-50 and 92-126 have been cancelled. Remaining dependent claims 2-41 depend, directly or indirectly, from claim 1. Applicants respectfully

submit that dependent claims 2-41 should be allowed for at least the reasons set forth above for the independent claims.

III. APRIL 21, 2004 REJECTIONS UNDER 35 U.S.C. § 102(e)

In the Office Action of April 21, 2004, independent claims 1, 42, 51, 92, 102, and 119-126 were rejected pursuant to 35 U.S.C. § 102(e) as being anticipated by Slotznick. In the prior response filed July 19, 2004, independent claims 1, 42, 102, and 119-123 were amended. These amendments added no new matter and are supported by the specification. With this response, claims 42-50 and 92-126 have been cancelled. Applicants submit that remaining independent claims 1 and 51, as previously amended, are not anticipated by Slotznick.

A. Independent Claims

Independent claim 1 relates to a "method for facilitating electronic commerce through a network, the network comprising at least one server computer capable of communicating with a browser system located at a remote client computer...." The method comprises: "receiving a first request for a first suggested order, said first suggested order comprising a first two or more suggested products or services of a plurality of products or services, a first suggested recurrence for each of said first two or more suggested products or services and first suggested quantities for each of said first two or more suggested products or services, wherein said first suggested recurrence associated with a first of said first two or more suggested products or services may be different than said first suggested recurrence associated with a second of said first two or more suggested products or services," "generating a first profile, by said at least one server computer, said first profile comprising a computer readable representation of said first suggested order," and "causing, by said at least one server computer, said first suggested order to automatically recur one or more times according to said first suggested recurrence based on said computer readable representation, by signaling a marketing system associated with said at least one server to fulfill each of said first two or more suggested products or services according to said associated of said first suggested recurrence."

Independent claim 51 relates to an "order management system for facilitating electronic commerce over a network, said network comprising at least one server computer capable of communicating with a browser system located at a remote client computer over said network...." The order management system comprises: "an order receiver operative to receive a first request for a first suggested order, said first suggested order comprising a first two or more suggested products or services of a plurality of products or services, a first suggested recurrence for each of said first two or more suggested products or services and first suggested quantities for each of said first two or more suggested products or services, wherein said first suggested recurrence associated with a first of said first two or more suggested products or services may be different than said first suggested recurrence associated with a second of said first two or more suggested products or services;" "a profile generator coupled with said order receiver and operative to generate a first profile, said first profile comprising said first suggested order;" and "an order generator responsive to said first profile and operative to cause said first suggested order to automatically recur one or more times according to said first suggested recurrence, each of said first two or more suggested products or services being fulfilled according to said associated of said first suggested recurrence."

B. Slotznick

Slotznick discloses an "intelligent agent which executes tasks by using intelligent agent learning modules which store information necessary to execute the tasks. A computer receives a command to execute a task or receives data which causes a task request to be generated. The computer accesses appropriate information in the learning modules to execute the task, and outputs instructions for output devices to execute the tasks. The tasks may be executed at a future time and on a periodic basis. The learning modules build up a database of information from previously executed tasks, and the database is used to assist in executing future tasks. The tasks include physical commercial transactions. Portions of the intelligent agent may be remotely located and interconnected via remote communication devices." *See* Slotznick, Abstract. "Using the present invention, both payment and delivery can be specified for future occurrence. In addition, the present invention incorporates a

learning database that accumulates data on an incremental as-needed basis. The present invention learns terms which it didn't originally know (such as nicknames, shipping addresses, alternate product names, and user's preferences over products) but only requires the data needed for the current task. The present invention remembers the data as a way to expedite the delegation process of the present task and similar tasks in the future. In short, the apparatus described herein can accomplish action at a distance in both time and space and arrange payment at a distance in time." *See* Slotznick, Col. 2, lines 53-66. "The present invention not only reminds a user about a task or event, but accomplishes that task without further user intervention." *See* Slotznick, Col. 3, lines 29-31.

C. Slotznick Fails to Disclose the Claimed Invention

While Slotznick discloses that the intelligent agent may be used to re-enter orders designated as periodic orders, Slotznick fails to disclose that the intelligent agent stores a single profile of multiple products to be ordered on a recurring basis wherein each of the products is capable of being reordered according to a different recurring basis as claimed in Applicants' claims. *See* Slotznick, Col. 21, lines 35-40. In particular, the intelligent agent of Slotznick is designed to ask a user if the order is a repeat order. *See* Slotznick, Col. 20, lines 26-29. After shipment and delivery of an order is completed, the system checks to see if the order was designated as a recurring order. *See* Slotznick, Col. 21, lines 35-40. If the order is so designated, the system reenters the order to be reprocessed on a calculated recurrence date. *See* Slotznick, Col. 21, lines 35-40. Applicants' claimed invention however, is capable of re-ordering various subsets of products or services of a single order on a recurring basis to alleviate the need for the user to constantly access the order system and enter multiple orders. As entering an order for multiple products is time consuming, Applicants' claimed invention provides the user with convenience – a user may enter every desired product or service into a single order and receive various subsets of that order at recurrence times appropriate for the given subset. This is important as different products or services may have different rates of usage or consumption and therefore the frequencies with which they must be replenished are different. As compared with the intelligent agent of Slotznick, the user would have to enter

multiple orders into the intelligent agent software, with each order specifying a different product delivery date and recurrence, for each set of products that the user wishes to order.

The Examiner refers to Col. 10, lines 13-17 of Slotznick to show that Slotznick discloses a profile being generated that results in different items being ordered month to month. While Slotznick does disclose that an order can be modified on a month to month basis based on a combination of inventory sensing equipment and computer based sales projections, Slotznick does not disclose different recurrence schedules, such as a different shipping schedule, that are received with the initial order for each of those multiple products. One of ordinary skill in the art would appreciate that the system of Slotznick is event driven and that one or more products or services may be grouped together for delivery based on an event such as a holiday or birthday or other trigger event, such as the current inventory level of particular products. Depending on the availability or projected needs of those items, the order may be modified at the time of the recurrence, i.e., Slotznick discloses that at the time the particular order is placed, current inventory levels may be factored in to appropriately adjust the order. However, Slotznick does not provide any mechanism equivalent to a profile which includes an order for multiple products or services where each of the products or services can have a different recurrence, e.g. shipment schedule, as specified in advance of a particular event by the customer when the initial order is placed. In order to work with the multiple events of Sloztnik, a user would have to submit multiple orders for the different products or services associated with each event in advance of the event, as described above. Applicants' claimed method permits a user to enter, in advance, a single order for multiple products or services where each may have a different recurrence schedule, and specify the recurrence schedule for each item when placing the order.

For at least these reasons, independent claims 1 and 51, as previously amended, are not anticipated by Slotznick. Accordingly, Applicants request that the Examiner withdraw the April 21, 2004 rejection of these independent claims.

D. Dependent Claims

In the Office Action of April 21, 2004, dependent claims 2-20, 24-41, 43-50, 52-70, 74-91, 93-101, 103-114, and 116-118 were also rejected pursuant to 35 U.S.C. § 102(e) as

being anticipated by Slotznick. In the prior response filed July 19, 2004, dependent claims 10, 60, and 116-118 were amended. These amendments added no new matter and are supported by the specification. As noted above, with this response, claims 42-50 and 92-126 have been cancelled. Remaining dependent claims 2-20, 24-41, 52-70, and 74-91 should be allowed for the reasons set out above for the independent claims. Applicants therefore request that the Examiner withdraw the April 21, 2004 rejection of these claims.

IV. AUGUST 12, 2003 REJECTIONS UNDER 35 U.S.C. § 103(a)

In the Final Office Action of August 12, 2003, dependent claims 21-23, 71-73 and 115 were rejected pursuant to 35 U.S.C. § 103(a) as being unpatentable over Slotznick in view of Hirohisa. In the response filed July 19, 2004, claim 115 was amended. This amendment added no new matter and is supported by the specification. With this response, claims 42-50 and 92-126 have been cancelled. The remaining dependent claims should be allowable for the same reasons as the independent claims from which they depend, as discussed above. Applicants further submit that dependent claims 21-23 and 71-73, as amended, are not obvious in view of Slotznick and Hirohisa.

Dependent claim 21, incorporates the limitations of independent claim 1 and further adds "wherein said first request further comprises usage information about how said first one or more suggested products or services are to be used...." In addition, dependent claim 21 adds "determining a predicted lifespan corresponding to said first one or more suggested products or services;" and "calculating said first suggested quantity and said first suggested recurrence based on said usage information and said predicted lifespan."

Dependent claim 71, as amended, incorporates the limitations of independent claim 51 and further adds "wherein said first request further comprises usage information about how said first one or more suggested products or services are to be used, said profile generator further operative to determine a predicted lifespan corresponding to said first one or more suggested products or services and calculate said first suggested quantity and said first suggested recurrence based on said usage information and said predicted lifespan."

Dependent claim 115, as amended, incorporates the limitations of independent claim 102 and further adds "wherein (a) occurs in response to receipt of usage information about

how said at least two products or services is to be used, said suggested recurrence being a function of said usage information and a predicted lifespan of said at least two products or services."

Slotznick is discussed above.

Hirohisa discloses a system for forecasting demand of a repetitively ordered specification-invariant product. *See* Hirohisa, translation, ¶ 1. The disclosed system automatically generates a repeat order record based on forecasts of future demand volume. The forecasts of future demand volume are created by delineating the use conditions from the historical progression of delivery volume. *See* Hirohisa, translation, ¶ 8.

Both Slotznick and Hirohisa fail to disclose a system that stores a single profile of multiple products to be ordered on a recurring basis wherein each of the products is capable of being reordered according to different recurring basis as claimed by Applicants. Slotznick is discussed above. Hirohisa fails to fill the gap. Hirohisa instead discloses a system that sets an order reception period for an article which is repeatedly ordered according to the movement demand of that article. *See* Hirohisa, Purpose. The system calculates the movement demand for a particular item, and generates an order for the item accordingly. *See* Hirohisa, ¶ 21. Hirohisa does not base the order reception period based on consumption of the product, but based on a delineation of use conditions from the progression of the delivery volume. *See* Hirohisa, ¶ 8. The system of Hirohisa looks at historical order patterns for the purpose of forecasting future orders. Hirohisa does not disclose utilizing usage or consumption information in concert with a product lifespan in order to determine a recurrence pattern.

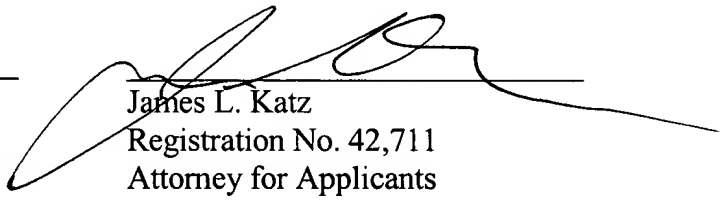
As neither Slotznick nor Hirohisa discloses to disclose a system that stores a single profile of multiple products or services to be ordered on a recurring basis wherein each of the products or services is capable of being reordered according to different recurring basis as claimed, the combination also fails to result in these limitations. For at least these reasons, claims 21-23 and 71-73 are not obvious in view of Slotznick and Hirohisa. Accordingly, Applicants request that the Examiner withdraw this rejection of dependent Claims 21-23 and 71-73.

CONCLUSION

Applicants respectfully submit that all of the pending claims are in condition for allowance and seek early allowance thereof. If for any reason, the Examiner is unable to allow the application in the next Office Action and believes that an interview would be helpful to resolve any remaining issues, he is respectfully invited to contact the attorney of record, James L. Katz, at (312) 321-7739.

Respectfully submitted,

Date: December 2, 2004



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